



House of Representatives

File No. 698

General Assembly

February Session, 2014

(Reprint of File No. 45)

Substitute House Bill No. 5309
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 28, 2014

AN ACT CONCERNING ABANDONED VESSELS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 15-140c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2015*):

3 (a) No person shall abandon any vessel on the waters of this state or
4 upon property other than his own without the consent of the owner
5 thereof. For the purposes of this section, a vessel shall be presumed to
6 be abandoned if: [left] (1) Left on the waters of this state not moored,
7 anchored or made fast to the shore and unattended for a period greater
8 than twenty-four hours, [or] (2) left upon property other than his own
9 without the consent of said property owner for a period greater than
10 twenty-four hours, [. The last owner of record of a vessel at the time it
11 was abandoned shall be presumed to be the person who abandoned
12 the same or caused or procured its abandonment] except in the case
13 where a tenant leaves a vessel behind on property such tenant
14 formerly rented, leased or occupied, in which case such vessel shall be
15 presumed to be abandoned ninety days after termination of occupancy

16 by such tenant, (3) left at a mooring for more than sixty days since
17 receipt of the last full payment, (4) left at a storage facility, repair
18 facility or other commercial facility for more than one year since
19 receipt of the last full payment by such facility, (5) found during a
20 declared emergency pursuant to chapter 517: (A) In a public right-of-
21 way and that hinders access to a public right-of-way or hinders access
22 to public utilities, or (B) in a location or condition that creates an
23 imminent danger to public safety or to the environment, or (6) left
24 upon the waters of the state for more than twenty-four hours and such
25 vessel is not properly registered.

26 [(b) Any officer authorized to enforce the provisions of this chapter
27 upon discovery of any vessel apparently abandoned, whether situated
28 on or out of the waters of the state, may take such vessel into his
29 custody and may cause the same to be taken to and stored in a suitable
30 place. There shall be no liability attached to such officer for any
31 damages to such vessel while in his custody. All charges necessarily
32 incurred by such officer in the performance of such duty shall be a lien
33 upon such vessel. The owner or keeper of any marina or other place
34 where such vessel is stored shall have a lien upon the same for his
35 storage charges and if such vessel has been stored for a period of not
36 less than sixty days, such owner or keeper may sell the same for
37 storage charges owed thereon, provided a notice of intent to sell shall
38 be sent to the Commissioner of Energy and Environmental Protection,
39 the Commissioner of Motor Vehicles, the Commissioner of
40 Transportation and the owner of such vessel, if known, five days
41 before the sale of such vessel. If the owner is unknown, such sale shall
42 be advertised in a newspaper published or having a circulation in the
43 town where such marina or other place is located three times,
44 commencing at least five days before the sale. The proceeds of such
45 sale, after deducting the amount due such marina owner or keeper and
46 all expenses of the officer who placed such vessel in storage, shall be
47 paid to the owner of such vessel or his legal representatives, if claimed
48 by him or them at any time within one year from the date of such sale.
49 If such balance is not claimed within said period, it shall escheat to the

50 state.]

51 (b) The last owner of record of a vessel, as recorded with the
52 governmental entity that issued such registration, shall be presumed to
53 be the person who abandoned or caused the abandonment of such
54 vessel, except: (1) Where such person provides the Commissioner of
55 Energy and Environmental Protection with sufficient evidence that
56 ownership of such vessel was transferred to another person prior to
57 the abandonment of such vessel, and (2) the last owner of record for
58 any vessel for which a certificate of title was issued by this state shall
59 be the owner indicated on such certificate of title. For the purpose of
60 this subsection, a vessel that is documented with the United States
61 Coast Guard under maritime or admiralty law shall be considered to
62 be registered with the United States Coast Guard.

63 (c) Only a party with standing or such party's designated agent, as
64 identified in writing by such party with standing on a notification of
65 abandoned vessel, may initiate the abandoned vessel procedures
66 described in this section. For the purpose of this section, the following
67 parties shall have standing:

68 (1) The owner of the property where the abandoned vessel came to
69 rest or to which the abandoned vessel was made fast;

70 (2) Any harbormaster, police department, municipality or agent of
71 the state that agrees to accept or process an abandoned vessel;

72 (3) Any emergency responder, including a responding utility, or any
73 person or firm contracted by a governmental agency to provide
74 emergency services and responding to a bona fide emergency in a
75 declared emergency pursuant to chapter 517 or the aftermath of a
76 declared emergency; and

77 (4) Any licensed motor vehicle dealer who is authorized to tow or
78 transport, in accordance with section 14-66, or any professional marine
79 salvager when such dealer or salvager is engaged by any of the
80 persons described in subdivisions (1) to (3), inclusive, of this

81 subsection.

82 (d) Any party with standing may seek full cost recovery from the
83 person who abandoned the vessel for any unpaid expense incurred as
84 a result of, or incidental to, such vessel abandonment. Any person who
85 acts in good faith and without malicious intent in the processing,
86 storage or movement of any abandoned vessel pursuant to this section
87 shall be immune from civil liability for damage to such vessel.

88 (e) The Commissioner of Energy and Environmental Protection shall
89 notify the Secretary of the State by electronic mail of the receipt of any
90 notice of abandoned vessel, as described in subsection (h) of this
91 section, for any abandoned vessel currently or previously registered in
92 this state. Such notification shall include a description of the
93 abandoned vessel and shall identify the name of the owner of the
94 vessel, as recorded with the Department of Motor Vehicles, if known.
95 After receipt of any such notification, the Secretary of the State shall
96 provide the Commissioner of Energy and Environmental Protection
97 with copies of: (1) Any financing statement filed with the Secretary of
98 the State for such vessel that names the owner of the vessel as the
99 debtor and that describes the vessel, by identification number or by
100 type, as collateral or that states that the collateral is "all assets" or "all
101 property" of said owner; or (2) any vessel lien against such vessel filed
102 with the Secretary of the State. The Commissioner of Energy and
103 Environmental Protection shall notify all secured parties listed on any
104 such financing statements and any such lienholders, in writing, that
105 such vessel is deemed abandoned. Such notice shall describe the
106 consequences of abandonment, as prescribed by this section, and
107 provide instructions regarding retrieval of such vessel. If such
108 abandoned vessel was documented in accordance with the maritime or
109 admiralty laws of the United States, the Commissioner of Energy and
110 Environmental Protection shall make reasonable efforts to determine
111 whether any lien, ship mortgage or security interest exists against such
112 abandoned vessel and shall make reasonable attempts to notify all
113 lienholders, ship mortgagees and persons with a security interest of
114 the status and location of the abandoned vessel.

115 (f) (1) Any party with a vessel lien, as filed with the Secretary of the
116 State, may seek a writ of attachment in accordance with the provisions
117 of section 49-55d. Any person with a security interest against an
118 abandoned vessel may take any action permitted by a secured party, in
119 accordance with the provisions of section 42a-9-601. Any such writ or
120 action shall be at such party's or person's own expense and instituted
121 not later than the issuance of a notice of assumed ownership to such
122 party or person by the Commissioner of Energy and Environmental
123 Protection. If such party or person fails to seek such writ or take action,
124 such party or person shall be deemed to have discharged such lien or
125 security interest. The Commissioner of Energy and Environmental
126 Protection shall file a notice of discharge of any such lien or security
127 interest with the Secretary of the State. Any such discharge notice
128 shall: (A) Identify the vessel lien or security interest by a file number,
129 (B) describe the vessel by identification number or type, and (C) state
130 that a notice of assumed ownership was issued to the party with
131 standing.

132 (2) Any party with a vessel lien or person with a security interest
133 against an abandoned vessel as filed with an agency of the United
134 States may seek a writ of attachment in accordance with the provisions
135 of section 49-55d or any other applicable provision of federal or state
136 law.

137 (3) Any vessel lienholder or person with a security interest may
138 request that the Commissioner of Energy and Environmental
139 Protection suspend the abandoned vessel procedures pursuant to
140 subsection (h) of this section for the purpose of arranging for the
141 removal, transport or storage of an abandoned vessel.

142 (4) Any party with a vessel lien or person with a security interest in
143 the vessel who enters onto property of a party with standing to take an
144 abandoned vessel into custody shall be liable to the applicable party
145 with standing for any damage or physical injury caused by such entry
146 or taking.

147 (5) Any abandoned vessel, once in the custody of a vessel lienholder
148 or person with a security interest or an agent of a vessel lienholder or
149 such person, shall no longer be deemed to be an abandoned vessel and
150 shall otherwise be processed pursuant to chapter 847.

151 (g) In the event an abandoned vessel is registered in another state,
152 the Commissioner of Energy and Environmental Protection shall notify
153 the registering agency and any agency of such state that is responsible
154 for recording vessel liens and security interests, by electronic mail, of
155 such vessel's abandonment and shall allow such agencies fifteen
156 business days to return information regarding the owner of record of
157 such vessel and any person who registered or recorded a vessel lien or
158 security interest against such vessel or to otherwise intervene in the
159 abandoned vessel procedures described in this section. If such agencies
160 identify any vessel lienholder or person with a security interest, the
161 commissioner shall make reasonable attempts to notify such vessel
162 lienholder or person. If such registering agency does not provide
163 contact information or otherwise intervene in such procedures not
164 later than fifteen business days after receipt of such notification, any
165 further obligation to identify or contact the last owner of record, vessel
166 lienholder or person with a security interest shall be considered to be
167 waived, unless the abandoned vessel is documented according to the
168 maritime or admiralty laws of the United States, in which case the
169 commissioner may use the information contained in such
170 documentation to identify the last owner of record.

171 (h) The Commissioner of Energy and Environmental Protection
172 shall establish the following online process for the disposition of
173 abandoned vessels. Such process shall apply, in its entirety, only to
174 those abandoned vessels that are not documented according to the
175 maritime or admiralty laws of the United States or for which such
176 documentation is expired or cancelled. The provisions of this
177 subsection shall not apply to vessels that are documented according to
178 the maritime or admiralty laws of the United States except the
179 provisions of subdivisions (1) to (5), inclusive, of this subsection.

180 (1) The party with standing shall file a notarized notice of
181 abandoned vessel with the Commissioner of Energy and
182 Environmental Protection in person, by mail, by paid delivery service
183 or electronically, as prescribed by the commissioner. Such filing shall
184 be on forms as prescribed by the commissioner. The fee for filing such
185 notice shall be twenty dollars.

186 (2) Upon receipt of any such filing, the commissioner shall
187 determine whether such vessel is reported as stolen or missing. If the
188 vessel was reported as stolen or missing, the police department with
189 whom the report was filed, after notification by the commissioner,
190 shall take such vessel into custody or arrange for the return of such
191 vessel to the owner of such vessel at the expense of the person who
192 abandoned such vessel.

193 (3) The commissioner shall post information regarding the report of
194 the abandoned vessel online, on a publicly accessible abandoned vessel
195 Internet web site. Such information shall be sufficient to identify the
196 abandoned vessel and shall contain, at a minimum and when such
197 information is known, the registration number of such vessel, the make
198 and model of such vessel, the length and color of such vessel, the town
199 and water body nearest to the location of such vessel abandonment
200 and instructions for contacting the commissioner.

201 (4) The commissioner shall send a certified letter to the person who
202 abandoned such vessel, provided such person can be identified and, in
203 such letter, identify the abandoned vessel, notify the recipient of the
204 consequences of abandonment under the provisions of this section and
205 provide instructions regarding retrieval of such vessel.

206 (5) The commissioner shall provide to the party with standing a
207 water resistant adhesive label advising that the subject vessel is being
208 processed pursuant to the provisions of this section and that contains
209 instructions on how to contact the commissioner in order to acquire
210 more information or intervene in such procedures. The party with
211 standing shall immediately affix the label to the abandoned vessel in a

212 prominent location in such a manner as to be visible to an approaching
213 person.

214 (6) A forty-five-day abandoned vessel period shall commence
215 beginning on the date of the first attempt to deliver the certified letter
216 described in subdivision (4) of this subsection. In any case in which a
217 vessel is not registered, such period shall begin when the
218 commissioner posts information regarding the abandoned vessel on
219 the Internet web site described in subdivision (3) of this subsection.
220 The commissioner may suspend such abandoned vessel period for not
221 more than six months for just cause, provided the commissioner shall
222 state, in writing, for publication on such abandoned vessel Internet
223 web site described in subdivision (3) of this subsection, the reason for
224 such suspension and the elements necessary to resume the abandoned
225 vessel period.

226 (7) On the day following the expiration of the abandoned vessel
227 period, if any person who abandoned such vessel, vessel lienholder or
228 person with a security interest did not contact the commissioner or
229 otherwise failed to remove such abandoned vessel, the commissioner
230 shall issue a notice of assumed ownership, by certified mail, to the
231 party with standing and provide a copy of the notice to the
232 Commissioner of Motor Vehicles by electronic mail. If such abandoned
233 vessel is the subject of a vessel lien or security interest, as filed with the
234 Secretary of the State, the Commissioner of Energy and Environmental
235 Protection shall file a notice of discharge with the Secretary of the
236 State. Such notice shall: (A) Identify the vessel lien or security interest
237 by a file number, (B) describe the vessel by identification number or
238 type, and (C) indicate that a notice of assumed ownership was issued
239 to the party with standing. The notice of assumed ownership shall be a
240 termination of any and all liens and security interests against such
241 vessel and shall satisfy the notice of removal requirements of section
242 49-56a. Upon issuance of said notice of assumed ownership the party
243 with standing shall be deemed to be the owner of the abandoned
244 vessel, and the original of the notice of assumed ownership shall be
245 prima facie evidence of such ownership. In the event such vessel is

246 titled in this or another state, such notice of assumed ownership shall
247 be prima facie evidence of a transfer, by operation of law, from a
248 titleholder to the party with standing and shall be deemed sufficient
249 documentation to establish the party with standing's ownership
250 interest or right to acquire the ownership interest. The Commissioner
251 of Motor Vehicles shall cancel the existing registration for such vessel
252 and shall note the transfer of ownership to the party with standing in
253 the vessel registration record, if such record exists and is accessible to
254 the Commissioner of Motor Vehicles. If such vessel is registered by a
255 registering agency other than the Department of Motor Vehicles, the
256 Commissioner of Motor Vehicles shall notify such agency, by
257 electronic mail, of the transfer of ownership.

258 (8) If the person who abandoned such vessel contacts the
259 Commissioner of Energy and Environmental Protection, such person
260 shall have until the last day of the abandoned vessel period described
261 in subdivision (6) of this subsection to remove such abandoned vessel
262 from the property or possession of the party with standing, as
263 applicable. If the person who abandoned such vessel fails to remove
264 such vessel by said day, the Commissioner of Energy and
265 Environmental Protection, in conjunction with the Commissioner of
266 Motor Vehicles, shall cause the registration of the abandoned vessel to
267 be cancelled and shall issue a notice of assumed ownership to the party
268 with standing. The commissioner may suspend the abandoned vessel
269 period, in accordance with subdivision (6) of this subsection, at the
270 request of the person who abandoned the vessel and for just cause
271 shown. The person who abandoned the vessel shall be liable for any
272 property damage caused by the removal of the abandoned vessel that
273 is undertaken pursuant to this subdivision.

274 (i) For a period of forty-five days following the end of a declared
275 state of emergency that resulted in the widespread displacement of
276 vessels and that was declared to be an emergency by the Governor
277 pursuant to chapter 517, there shall be no fee for the filing of a notice of
278 abandoned vessel, pursuant to subdivision (1) of subsection (h) of this
279 section, and notarization of such notice shall not be required.

280 Notwithstanding sections 1-217 and 14-10, the commissioner may
281 publish the name of the owner of any such abandoned vessel and town
282 of record, as such information appears on vessel registration records,
283 during the declared emergency and until such time as such vessel is no
284 longer deemed abandoned.

285 (j) A notice of abandoned vessel, as described in subdivision (1) of
286 subsection (h) of this section, shall be prepared and submitted to the
287 Commissioner of Energy and Environmental Protection for each
288 abandoned vessel, including any vessel that is documented with the
289 United States Coast Guard in accordance with the maritime or
290 admiralty laws of the United States or that is relocated to an
291 abandoned vessel holding area by persons or agents acting in a relief
292 or emergency capacity.

293 (k) The Commissioner of Energy and Environmental Protection may
294 waive the requirement to contact the person who abandoned such
295 vessel by certified mail, as required by subdivision (4) of subsection (h)
296 of this section, if contact with such person is otherwise established by
297 electronic mail or another suitable means of communication, as
298 determined by the commissioner.

299 (l) Notwithstanding any provisions of the general statutes, any
300 waste oil, fuel, antifreeze or other hazardous materials stored on an
301 abandoned vessel and incidental to the operation and maintenance of
302 such abandoned vessel shall be deemed household hazardous waste,
303 for the purpose of disposal of such materials, if removed from such
304 abandoned vessel in preparation for the storage, removal or
305 destruction of such abandoned vessel.

306 (m) Any person who abandons a vessel shall have committed a
307 violation and shall be fined not less than three hundred dollars nor
308 more than five hundred dollars, except if such abandonment occurred
309 during a declared emergency and as a result of the conditions that
310 caused such emergency to be declared.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>January 1, 2015</i>	15-140c
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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Department of Energy and Environmental Protection	GF - Potential Cost	Approximately 500-1,000	Approximately 1,000-2,000
Various State Agencies	Various - Potential Cost	Approximately 500-1,000	Approximately 500-1,000
Department of Energy and Environmental Protection	GF - Potential Revenue Gain	Approximately 500-1,000	Approximately 1,000-2,000
Judicial Department ¹	GF - Potential Revenue Gain	Approximately 1,500-7,500	Approximately 1,500-7,500

Municipal Impact:

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Potential Cost	Approximately 500-1,000	Approximately 500-1,000

Explanation

The bill makes various changes to current law regarding abandoned vessels that may result in (1) potential costs to state agencies and municipalities of less than \$1,000 annually and (2) revenues to the state of up to \$7,500 annually.

The bill establishes a \$20 filing fee payable to DEEP to start the administrative process for abandoned vessels. Various state agencies or municipalities may start this process with DEEP. As DEEP manages the administration of approximately 50-100 abandoned vessels annually, there may be a revenue gain to DEEP of approximately \$500

¹ Statutory violations are subject to Infractions Bureau procedures which allow the accused to pay the fine by mail without making a court appearance.

to \$1,000 in FY 15 and \$1,000 to \$2,000 in FY 16 from receipt of these fees.² To the extent municipalities or various state agencies initiate the abandonment process they may incur minimal costs.

In addition, the bill requires DEEP to send abandonment notices to the presumed owner via certified mail. There could be costs of approximately \$100 to \$175 in FY 15 and \$175 to \$350 in FY 16 to DEEP for the increased volume of certified mail, at a cost of \$3.30 each.³ It is expected that between five and fifteen additional certified letters would be mailed annually.

Lastly, the bill makes abandoning a vessel a violation, under certain conditions, and subjects violators to a fine of between \$300 to \$500. There are estimated to be approximately five to fifteen violations annually, which could result in a revenue gain to the state of approximately \$1,500 - \$7,500.

House "A" replaces the underlying bill with the impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to (1) inflation, (2) the number of filing fees submitted to DEEP, (3) the amount of certified mail sent, and (4) the number of violations that occur.

^{2, 3, and 4} The cost in FY 15 adjusts anticipated annual costs for one-half of the year, as the effective date of the bill is January 1, 2015.

OLR Bill Analysis**sHB 5309 (as amended by House "A")******AN ACT CONCERNING ABANDONED VESSELS.*****SUMMARY:**

This bill replaces existing procedures for seizing and disposing of abandoned vessels and establishes a new administrative process for doing so.

The bill replaces current law, which (1) allows an officer to seize an abandoned vessel and deliver it to a person for storage; (2) permits that person to sell it if it is unclaimed after 60 days; and (3) specifies that sale proceeds cover storage costs and are then paid to the owner, or the state if unclaimed. The bill instead generally allows certain public or private parties to begin a process to take ownership of an abandoned vessel and ownership may occur after 45 days if the vessel is not claimed by the owner, a lienholder, or a person with a security interest.

The bill makes abandoning a vessel punishable by a fine of between \$300 and \$500, unless the abandonment occurs during, and because of conditions that caused, a declared emergency.

It also deems waste oil, fuel, antifreeze, or other hazardous materials stored on an abandoned vessel to be household hazardous waste for disposal purposes if the materials are (1) incidental to the vessel's operation and maintenance and (2) removed to prepare for the vessel's storage, removal, or destruction. This treats the materials in the same way as waste generated during routine household activities and exempts them from hazardous waste requirements.

*House Amendment "A" (1) requires the secretary of the state to provide the Department of Energy and Environmental Protection (DEEP) commissioner with copies of security documents, instead of

only informing him of lienholders or secured parties, when he notifies the secretary of an abandoned vessel; (2) eliminates a 10-day deadline for the secretary to respond to the commissioner's notice; (3) makes the commissioner, instead of the secretary, notify lienholders and secured parties of an abandoned vessel; (4) generally requires vessel lienholders and people with security interests to (a) contact the commissioner or (b) remove the vessel to prevent having a lien or interest discharged; (5) makes the commissioner file a notice of discharge with the secretary for liens or security interests that are not preserved; (6) subjects vessel lienholders and people with security interests holders to liability for physical injury, in addition to damage, caused by removing an abandoned vessel from the property of a person with standing; and (7) makes several minor and technical changes to the original file.

EFFECTIVE DATE: January 1, 2015

PRESUMPTION OF VESSEL ABANDONMENT

Abandoned Vessel

The bill generally expands the circumstances in which a vessel is considered abandoned.

The law prohibits abandoning a vessel on state waters or on someone's property without the property owner's consent. Under current law, a vessel is presumed abandoned if it is left on (1) state waters not moored, anchored, or made fast to the shore and unattended for more than 24 hours or (2) someone else's property without consent for more than 24 hours.

The bill retains these presumptions but allows former tenants who leave behind a vessel on property they rented, leased, or occupied for up to 90 days before it is considered abandoned. It also presumes a vessel abandoned if it is:

1. left at a mooring for more than 60 days since the last full payment was received;

2. left at a storage, repair, or other commercial facility for more than one year since the facility received the last full payment;
3. found during a declared emergency either in a (a) public right-of-way hindering access to the right-of-way or public utilities or (b) location or condition creating an imminent danger to public safety or the environment; or
4. left on state waters for more than 24 hours and not properly registered.

Vessel Owner

Current law presumes that the last owner of record when the vessel was abandoned is the person who abandoned it or caused its abandonment. The bill generally retains this presumption. It specifies that the owner is the person on record with the government agency that registered the vessel, except (1) if the person provides the DEEP commissioner with sufficient evidence showing a transfer of vessel ownership before abandonment and (2) the last owner of record for any vessel with a Connecticut-issued certificate of title is the owner indicated on the certificate. Vessels documented with the U.S. Coast Guard under maritime or admiralty law are considered registered with the Coast Guard.

ABANDONED VESSEL PROCEDURE

Current Law – Provisions Eliminated

The bill eliminates existing procedures regarding abandoned vessels and establishes new ones. It eliminates current law that:

1. allows any officer authorized to enforce the state's boating laws to take an abandoned vessel into custody and store it;
2. protects an officer from liability for damage to a vessel when in his or her custody;
3. provides a lien for (a) charges incurred by the officer in taking custody of the vessel and (b) storage charges of the owner or

- keeper of a marina or other location where the vessel is stored;
4. allows the owner or keeper to sell the vessel to recoup the storage charges if it is stored for at least 60 days;
 5. requires notice of the sale to be (a) provided to the vessel owner and the DEEP, motor vehicles, and transportation commissioners five days before the sale or (b) published in a newspaper at least three times starting at least five days before the sale if the owner is unknown; and
 6. requires (a) paying the sale proceeds, minus the amounts due to the marina owner or keeper and the officer who took the vessel for storage, to the vessel owner if claimed within one year of the sale and (b) unclaimed funds to escheat to the state.

Who Can Begin the Process

Under the bill, only a party with standing, or its designated agent identified in writing on the notification of abandoned vessel (see below), may begin the abandoned vessel process. The bill gives the following parties standing:

1. the owner of property where the abandoned vessel came to rest or to which it was made fast;
2. a harbormaster, police department, municipality, or agent of the state that agrees to accept or process an abandoned vessel;
3. an emergency responder, including a responding utility or person or firm (a) contracted by the government to provide emergency services and (b) responding to a bona fide emergency during or after an emergency declared by the President or governor; and
4. a licensed motor vehicle dealer who is authorized by law to tow or transport vehicles or a professional marine salvager, when the dealer or salvager is employed by any of the above parties.

The bill allows these parties to recover from the person who abandoned the vessel the expenses they incur because of the vessel's abandonment. It generally relieves any person from civil liability for damage to an abandoned vessel if the person acts in good faith and without malice when processing, storing, or moving the vessel according to the bill's provisions. (But the bill makes vessel lienholders and persons with security interests liable for damage or physical injury when removing abandoned vessels, see below).

Determining Interested Parties of Abandoned Vessels

Vessels Registered in Connecticut. The bill requires the DEEP commissioner to notify the secretary of the state by email when he receives a notice of an abandoned vessel (see below) that is or was registered in Connecticut. He must (1) describe the vessel and (2) identify the owner's name, if known, as recorded with the Department of Motor Vehicles (DMV).

The secretary of the state must then provide the commissioner with copies she has of any filed (1) financing statement for the abandoned vessel that names the owner as the debtor and describes the vessel, by identification number or type, as collateral or that states the collateral is "all assets" or "all property" of the owner or (2) vessel lien against the abandoned vessel. The bill requires the commissioner to provide written notice to all of the secured parties on the financing statements and vessel lienholders of the vessel's abandonment. The notice must (1) describe the consequences of abandonment and (2) provide instructions for how to retrieve the vessel.

Under the bill, if an abandoned vessel is documented according to federal marine or admiralty law, the commissioner must reasonably try to (1) determine if liens, ship mortgages, or security interests exist against the vessel and (2) notify the lienholders, ship mortgagees, and people with security interests of the vessel's status and location.

Vessels Registered in Other States. If an abandoned vessel is registered in another state, the bill requires the DEEP commissioner to

send notice of the abandoned vessel by email to the other state's registering agency and agencies responsible for recording vessel liens and security interests. Under the bill, the commissioner must provide these agencies 15 business days to (1) return information on the vessel's owner and anyone who registered or recorded a vessel lien or security interest or (2) intervene in the abandoned vessel process. If these agencies identify vessel lienholders or people with security interests, the commissioner must make reasonable attempts to notify them.

The bill relieves the commissioner of any further obligation to identify or contact the last owner of record, vessel lienholders, or people with security interests if the other state's registering agency fails to provide the contact information or intervene in the process within 15 business days of receiving the notice.

But for vessels documented under federal maritime or admiralty law, the commissioner may use information from the documentation to identify the last owner of record.

Process for Disposing of Abandoned Vessels

The bill establishes a new online procedure to dispose of abandoned vessels. Abandoned vessels with current documentation under federal maritime or admiralty law are subject to the initial notice and labeling procedures, but not the 45-day abandoned vessel period or transfer of ownership provisions. Federal law generally governs these vessels.

Notice of Abandoned Vessel. The bill requires a party with standing to file a "notice of abandoned vessel" with the DEEP commissioner to start the abandonment process. The notice must be notarized and filed on forms the commissioner prescribes. The commissioner also prescribes the manner of filing, which may be in person, electronically, or by mail or paid delivery service, and the filing fee is \$20. But for filings occurring within 45 days after the end of an emergency declared by the governor that results in widespread vessel displacement, no filing fee or notarization is necessary.

The bill requires that a notice of abandoned vessel be prepared and submitted to the commissioner for each abandoned vessel. It includes vessels (1) documented with the U.S. Coast Guard under federal maritime or admiralty law or (2) relocated to an abandoned vessel holding area by people or agents acting in a relief or emergency capacity.

Stolen or Missing Vessels. Under the bill, when the DEEP commissioner receives the filing, he must determine if the vessel is reported as stolen or missing. If so, he must notify the police department with which the report was filed and the department must (1) take the vessel into custody or (2) arrange for the return of the vessel to its owner at the expense of the person who abandoned it.

Internet Notice. The bill requires the DEEP commissioner to post information about the report of the abandoned vessel (presumably the notice) on a publicly accessible abandoned vessel website. The information must be sufficient to identify the vessel and include, if known, at least (1) the vessel's registration number, make, model, length, and color; (2) the town and water body nearest to where the vessel was abandoned; and (3) instructions for contacting the commissioner.

The law generally prohibits public agencies from disclosing the residential addresses of certain public employees (e.g., judges, firefighters, law enforcement officers). But during a declared emergency and until a vessel abandoned during the emergency is no longer abandoned, the bill allows the commissioner to publish any abandoned vessel owner's name and town of record as obtained from vessel registration records.

Certified Letter. The DEEP commissioner must send a certified letter to the person who abandoned the vessel, who is presumed to be the owner, if the person can be identified. In the letter, he must (1) identify the vessel, (2) explain the consequences of abandonment, and (3) provide instructions for retrieving the vessel.

The bill allows the commissioner to waive this certified mail requirement if he establishes contact with the person by email or some other communication method he determines suitable.

Label. The bill requires the DEEP commissioner to provide the party with standing with a water resistant adhesive label to be immediately affixed to the abandoned vessel. The label must (1) advise that the vessel is being processed according to the bill's abandoned vessel procedure and (2) provide instructions for contacting the commissioner to get more information or intervene. It must be placed in a prominent location and in a way that is visible to an approaching person. The bill also requires placing this label on abandoned federally documented vessels, although these vessels are exempt from the transfer of ownership provisions of the abandonment process.

45-Day Abandoned Vessel Period. Under the bill, a 45-day abandoned vessel period starts when the first attempt to deliver the certified letter to the person who abandoned the vessel is made. For unregistered vessels, the period begins when the DEEP commissioner posts information about the vessel on the publicly accessible abandoned vessel website.

The bill allows the commissioner to suspend the period for up to six months for just cause if he states in writing on the website the (1) reason for the suspension and (2) elements needed to resume the 45-day period.

Owners Reclaiming Vessels. The bill gives a person who abandoned a vessel until the last day of the 45-day abandoned vessel period to remove the vessel from the property or possession of the party with standing, if the person who abandoned the vessel contacts the DEEP commissioner. But it allows this person to ask for the abandoned vessel period to be suspended if there is just cause. The bill makes the person who abandoned the vessel liable for any property damage caused by removing it.

If the person who abandoned the vessel fails to remove it, the DEEP

commissioner, in conjunction with the DMV commissioner, must (1) cancel the vessel's registration and (2) issue a notice of assumed ownership to the party with standing (see below).

Liens and Security Interests. Under the bill, any party with a vessel lien that is filed with the secretary of the state must seek a writ of attachment from the Superior Court or else their lien is discharged. Similarly, anyone with a security interest against an abandoned vessel must take action, as allowed by the law on rights after default, or the interest is discharged. These must be (1) done at the party's or person's expense and (2) started before DEEP issues a notice of assumed ownership to the party or person (but the DEEP commissioner issues the notice to the party with standing, as defined above, and a lienholder or person with a security interest is not a party with standing). Under the bill, the DEEP commissioner must file a notice of discharge of any lien or security interest with the secretary of the state. The notice must (1) identify the vessel lien or security interest by a file number, (2) describe the vessel by identification number or type, and (3) state that a notice of assumed ownership was issued to the party with standing.

Similarly, the bill allows vessel lienholders and people with security interests on abandoned vessels filed with a federal agency to also seek a writ from the Superior Court, as described above, or under any other applicable state or federal law.

Under the bill, vessel lienholders that do not file their liens and those that file them in another state are unable to seek the writ. But the bill allows lienholders and people with security interests, whether or not they have the writ, to request a suspension of the procedures for the removal, transport, or storage of an abandoned vessel.

The bill makes vessel lienholders and people with security interests who take custody of abandoned vessels by entering onto the properties of parties with standing liable to the parties for any damage or physical injury caused by the entry or the taking of the vessel.

Under the bill, an abandoned vessel in the custody of a vessel lienholder, person with a security interest, or their agents, is no longer abandoned and must be sold according to existing law regarding vessel liens.

Notice of Assumed Ownership. The bill requires the DEEP commissioner to issue a “notice of assumed ownership” to the party with standing on the day after the abandoned vessel period ends if the person who abandoned the vessel or any vessel lienholder or person with a security interest fails to (1) contact him or (2) remove the vessel. The notice must be sent by certified mail with a copy sent by email to the DMV commissioner.

For abandoned vessels subject to vessel liens or security interests filed with the secretary of the state, the DEEP commissioner must file a notice of discharge with the secretary. The bill requires the notice to (1) identify the vessel lien or security interest by a file number, (2) describe the vessel by identification number or type, and (3) indicate that a notice of assumed ownership was issued to the party with standing. The notice of assumed ownership (1) terminates all liens and security interests against the vessel and (2) satisfies the law’s requirements for lien removal.

Once the notice of assumed ownership is issued, the party with standing is considered the abandoned vessel’s owner and the original document is prima facie evidence of ownership. The bill also makes the notice prima facie evidence of a transfer of ownership, by law, from a titleholder to the party with standing. The notice is deemed sufficient documentation to establish the ownership interest or right to acquire the interest.

The bill requires the DMV commissioner to then cancel the vessel’s existing registration and note the ownership transfer to the party with standing in the vessel’s registration record, if it exists and is accessible. For vessels registered by some other agency, the DMV commissioner must electronically notify the agency of the ownership transfer.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/07/2014)

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (04/09/2014)